



# California Fair Political Practices Commission

December 17, 1985

Anna Johs, Councilwoman  
City of Oxnard  
300 W. Third Street  
Oxnard, CA 93030

Re: Your Request for Advice  
Our File No. A-85-236

Dear Councilwoman Johs:

Thank you for writing and requesting advice regarding the campaign contribution provisions of the Political Reform Act of 1974.<sup>1/</sup>

The Oxnard City Council acts as the Redevelopment Agency and the Housing Authority and you wish to know:

## QUESTIONS

1. Whether a councilmember who has received more than \$250 in contributions from an individual or a business entity is disqualified from voting on redevelopment or housing matters involving the contributor; and

2. Whether a councilmember who has received over \$250 in contributions from an individual or a business entity can return the donation the day of the council session (including while council is in session) and avoid being disqualified from voting on the matter involving the contributor.

## CONCLUSIONS

1. While sitting in its entirety as the Redevelopment Agency or the Housing Authority, the city council is exempt from Section 84308.

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1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

2. So long as an officer returns the contribution (or that portion of the contribution that exceeds \$249) within 30 days of when he or she knew or should have known about the contribution and the proceeding, the officer is not disqualified from participating in the proceeding.

#### DISCUSSION

Section 84308 prohibits an officer of an agency from knowingly accepting, soliciting or directing a contribution of \$250 or more from any party or financially interested participant while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding. However, Section 84308(a)(3) provides that an "agency" does not include "local governmental agencies whose members are directly elected by the voters." This means that members of a city council are exempt from this section while acting as members of that body.

By regulation the Commission has also exempted the officers of an agency when:

(1) They are acting as members of the governing body of the agency, and the body is acting in its entirety as itself or as the ex officio governing body of any other agency..., or

(2) They are acting as members of any committee or subgroup of the governing body of the agency which is composed solely of members of the governing body of the agency.

2 Cal. Adm. Code Section 18438.1

Therefore, when a city council has designated itself as the redevelopment agency or the housing authority, the councilmembers are exempt from the provisions of Section 84308 while sitting as members of those agencies.

If, however, a councilmember is appointed to the governing body of an agency that is not exempt from Section 84308 (e.g., a joint powers agency such as S.C.A.G.), then the provisions of Section 84308 would apply with respect to that agency.

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When Section 84308 is applicable, each officer of the agency, who has received a contribution of \$250 or more within the preceding 12 months of a decision involving a license, permit or other entitlement for use, is required to disclose the receipt of such contribution on the record of the proceeding. Furthermore, the officer is disqualified from participating in or influencing the decision which concerns the contributor.

Disqualification is not required if the officer "returns the contribution within 30 days from the time he or she knows, or should have know, about the contribution and the proceeding involving a license, permit, or other entitlement for use...." (Section 84308(c).)

For your convenience, I am enclosing the complete set of regulations dealing with Section 84308. I hope you find them useful and informative. If you have any additional questions regarding Section 84308 or any other provision of the Political Reform Act, please do not hesitate to contact this office again.

Sincerely,



Diane Maura Fishburn  
Staff Counsel  
Legal Division

DMF:JG:plh  
Enclosure



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CITY COUNCIL • 300 W. THIRD STREET • OXNARD, CALIFORNIA 93030 • (805) 984-4606

MRS. ANNA JOHS, COUNCILMEMBER

Dear Alice Hughes:

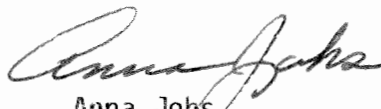
I am presently serving as Councilwoman on the Oxnard City Council. Our City Council also serves as the Redevelopment Agency and Housing Authority. I am requesting written clarification on campaign contributions received from principals involved in redevelopment or housing agenda items being considered by council.

I have concerns regarding the two following items:

1. If a councilmember has received more than \$250.00 in contributions from an individual or entity, can that councilmember vote on the issue involving the contributor?
2. If a councilmember has received over \$250.00 in contributions from an individual or entity, is it possible for the councilmember to return the donation the day of the council session (including while council is in session) in order to vote on the agenda item?

Thank you for your time and consideration.

Sincerely,

  
Anna Johs  
Councilwoman

AJ:PR:mgs